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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GUSTAVO CRUZ-ROMAN,

Defendant - Appellant.

No. 06-10422

D.C. No. CR-05-00781-JAT

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona
James A. Teilborg, District Judge, Presiding

Submitted November 13, 2007^{**}

Before: TROTT, W. FLETCHER and CALLAHAN, Circuit Judges.

Gustavo Cruz-Roman appeals from his guilty-plea conviction and 46-month sentence for transporting illegal aliens, in violation of 8 U.S.C. § 1324(a)(1)(A)(ii). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Cruz-Roman's counsel has

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record. We have provided the appellant the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Cruz-Roman has filed a notice of filing sealed documents replacing several pages in the excerpt of record. The Clerk shall file under seal the supplemental substitute excerpt of record received on February 8, 2007.

Because our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 82-83 (1988), indicates that Cruz-Roman waived his right to appeal and was sentenced within the terms of the plea agreement, we enforce the waiver and dismiss the appeal. See *United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000).

Counsel's motion to withdraw is granted.

DISMISSED.